IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2147 OF 2003
IN
WRIT PETITION NO. 572 OF 2003 .

Mrs. Hasina H.Shaikh & ors. ..Applicant.

vs.

The Principal,
Rizvi College of Arts,Science
and Commerce ... Applicant.

V/s.

Shri Dharamraj Halwai i/b M.P. Vashi & Associates
for the Applicant.

Shri M.J.Shety for the respondents.

CORAM : V.C.DAGA, J.

DATED : 16.12.2005.

P.C. :

. Heard rival parties.

2. This petition is directed against the order dated 19.7.2002 passed by the Presiding Officer, Bombay University and College Tribunal, directing reinstatement of original respondent Mrs. Hasina Hafij Shaikh. While granting 'Rule', this Court has granted interim relief in terms of prayer clause (b) on the solemn assurance given by the petitioner that in future, if any vacancy occurs and work is found to be available, the case of the petitioner will be considered.

3. It has come on record by way of reply to the

civil application that when contigency of appointment of the additional staff arose, petitioner chose to publish an advertisement pursuant to which 5 candidates including the petitioner were interviewed on 28.8.2003 and 29.8.2003. According to the petitioner, respondent No.1 had appeared for interview but she was not selected since she was found unsuitable by the management in view of her educational qualification. At this stage, it will not be out of place to mention that the respondent N.1 has already been ordered to be reinstated by the College Tribunal finding her suitability for the post.

4. In the above view of the matter, it was expected on the part of the petitioner, to appoint respondent No.1 as soon as vacancy arose subject to the result of the petition. It was not necessary for them to advertise and invite applications in the peculiar facts and circumstances of this case. It was taken on record at the instance of the petitioner, while admitting this petition that, in future, in the event of any vacancy, the case of the petitioner would be considered.

5. It is to be seen that there is absolute stay from 31st March, 2003. Since then respondent No.1 is out of service. This interim order was passed on the solemn assurance given by the management.

However, management failed to maintain that assurance and chose to issue an advertisement and invite applications. In these circumstances, interim relief obtained by the petitioner is liable to be vacated in view of breach of the solemn assurance given to this Court. Accordingly, interim relief granted by this Court in terms of prayer clause (b) stands vacated. Petitioner is directed to reinstate respondent No.1 subject to result of the petition.

6. Learned Counsel for the original petitioner prays for stay of this order. Prayer is rejected.

(V.C. DAGA,J.)